

**Declaration of Andrew Diamond**

1. I am a co-owner of Plaintiff Angry Crab Shack Corporation (“ACS”). The facts stated in this declaration are true of my own personal knowledge, except as to any matters stated on information and belief, and as to those matters, I am informed and believe them to be true. If called as a witness in this matter, I could and would competently testify to the matters set forth below.

2. ACS owns and operates several Cajun-themed seafood boil restaurants in Arizona under the marks ANGRY CRAB SHACK and ANGRY CRAB SHACK & BBQ.

3. ACS first used the ANGRY CRAB SHACK mark at least as early as November 22, 2013, when it opened its first ANGRY CRAB SHACK restaurant in Mesa, Arizona.

4. ACS first used the ANGRY CRAB SHACK & BBQ mark at least as early as October 22, 2014 when it opened its ANGRY CRAB SHACK restaurant in Phoenix, Arizona.

5. Since that time, ACS opened another ANGRY CRAB SHACK & BBQ restaurant in Ahwatukee, Arizona, and two additional ANGRY CRAB SHACK restaurants in Goodyear and Peoria, Arizona.

6. ACS intended early on to franchise the ANGRY CRAB SHACK concept across the United States.

7. In or around the summer of 2014, ACS’s owners began discussions about franchising the Angry Crab Shack restaurants and specifically identified four initial target markets for expansion. These were Tucson, Chicago, Denver and Atlanta.

8. Chicago was an area of specific interest because some of the co-owners had strong personal ties to the city.

9. Moreover, ACS knew that seafood boil restaurants were particularly popular with the Asian population, and Chicago has a very strong Asian and Filipino community.

10. One of the ACS’s co-owners, Dan Sevilla, is Filipino himself. Mr. Sevilla was born in Chicago and lived in the Rogers Park area.

11. ACS also specifically identified Chicago for expansion due to the large number of Chicago residents that visited Plaintiff’s Mesa location, particularly during the 2014 MLB Spring Training season.

12. ACS’s Mesa location is just seven miles from the Chicago Cubs’ spring training facility.

13. ACS has taken significant steps toward launching a national franchise.

14. ACS has received several inquiries from Chicago-area residents about the

opportunity to open an Angry Crab Shack franchise there.

15. ACS first learned about Defendant's planned opening of a second location in or about the middle of March of 2016 when it saw an article on the topic.

16. The article simply stated that Defendant itself planned to open a second location and gave no indication that outside parties would be involved.

17. At the time Defendant saw the article, the parties were deeply engaged in serious settlement discussions.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 15 day of July, 2016.



Andrew Diamond